

## Article - Public Safety

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§13A–904.

(a) (1) In a trial by general or special court–martial or in a pretrial proceeding under § 13A–601.1 of this title, the State may appeal the following:

(i) an order or a ruling of the military judge that terminates the proceedings with respect to a charge or specification other than a finding of guilt;

(ii) an order or a ruling that excludes evidence that is substantial proof of a fact material in the proceeding;

(iii) an order or a ruling that directs the disclosure of classified information;

(iv) an order or a ruling that imposes sanctions for nondisclosure of classified information;

(v) a refusal of the military judge to issue a protective order sought by the State to prevent the disclosure of classified information;

(vi) a refusal by the military judge to enforce an order described in subsection (e) of this section that has previously been issued by appropriate authority; and

(vii) an order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.

(2) (i) 1. An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling.

2. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one that excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(ii) An appeal of an order or ruling may not be taken when prohibited by § 13A–709 of this title.

(3) An appeal under this section shall be diligently prosecuted as provided by law.

(b) (1) An appeal under this section shall be forwarded to the court prescribed in § 13A–908 of this subtitle.

(2) In ruling on an appeal under this section, that court may act only with respect to matters of law.

(c) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

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